

THE EFFECTIVE DATE OF THIS ORDINANCE IS JUNE 19, 2008

ORDINANCE NO. 08-10-486

OPINION, FINDINGS AND ORDINANCE  
OF  
BOARD OF COUNTY COMMISSIONERS  
OF  
FREDERICK COUNTY, MARYLAND

RE: APPLICATION OF WELLINGTON II/YBC INVESTORS, LLC  
REZONING CASE NO. R-07-01

OPINIONS/FINDINGS

Wellington II/YBC Investors LLC ("Applicant") filed this application to rezone 7.17 acres, more or less, from Agriculture (A) to Mixed Use Development (MXD), and to revise the original Phase I Concept Plan for the Younkens MXD, all as more fully described in the record. The Applicant is requesting to rezone three (3) parcels of land adjacent to the previously approved Younkens MXD, with the intent to incorporate the three parcels into a revised Phase I Concept Plan for the mixed-use development planned for the south end of the Younkens MXD property, below the proposed English Muffin Way extension. The three parcels are situated on New Design Road. The Applicant proposes to integrate the three parcels into the Younkens MXD.

The Board of County Commissioners of Frederick County, Maryland (the "Board") granted approval of the requested rezoning of the Younkens MXD property and associated Phase I Concept Plan on November 16, 2006, by Ordinance No. 06-40-436. As approved, the Younkens MXD includes all of the land south of the proposed English

Muffin Way extension, north of New Design Road and east of Elmer Derr Road, except for these three parcels.

The Younkens MXD presently contains 50.55 acres of land, more or less; the present application proposes to increase the Younkens MXD property to 57.99 acres of land, more or less. The Applicant has submitted a revised Phase I Concept Plan for the Younkens MXD which proposes to utilize two of the parcels in this application for employment uses and the third parcel for commercial development. The maximum land use percentages set by the Board in Ordinance No. 06-04-436 are 0% residential, up to 45% commercial and up to 65% employment. The proposed addition of the 7.17 acres would not exceed these maximum land use percentages.

The Frederick County Planning Commission voted to recommend approval of the request with six conditions.

Based on all of the evidence submitted in this case, the Board makes the following specific findings of fact (in addition to the findings above) on each of the matters mentioned in Md. Code Ann., Art. 66B, § 4.05(a):

1. POPULATION CHANGE: This application does not include a residential development component. No new population is anticipated as a result of this rezoning request.

2. AVAILABILITY OF PUBLIC FACILITIES:

A. SCHOOLS

This application does not include a residential component. No impact on the school system is anticipated as a result of this rezoning request.

B. FIRE AND RESCUE SERVICES

The site is served by the Westview Station (United Steam Fire Engine Company No. 3) located at 5225 New Design Road, north of Crestwood Boulevard. This station is situated approximately 1.75 miles from the site. Emergency services are also available from the Jefferson Volunteer Fire Company, the Braddock Heights Volunteer Fire Company, all of which are located between four and five miles from the site.

C. POLICE SERVICE

Police protection to the site is provided by the Frederick County Sheriff's Office and the Maryland State Police. The nearest Sheriff's Office facility is located on Airport Drive at the Frederick County Emergency Communications and Law Enforcement Complex.

D. PARKS AND RECREATION FACILITIES

This application does not include a residential development component. No impact on park and recreation facilities is anticipated as a result of this application.

E. LIBRARIES

This application does not include a residential development component. No impact on library facilities is anticipated as a result of this application.

F. WATER AND SEWER

Two of the parcels in this application are classified as S-4 DEV and W-4 DEV indicating sewer and water service within 4 to 6 years. The third parcel is classified S-3 DEV and W-3 DEV indicating sewer and water service within 1 to 3 years.

Public water and sewer are currently available to the site. A twelve inch sewer line is located within the right of way of New Design Road. Sewage treatment will occur at the Ballenger Creek-McKinney Wastewater Treatment Plant, which has existing capacity of 6 million gallons per day (MGD).

Water service will be provided by an existing sixteen inch water line to be extended from its current terminus at the intersection of New Design Road and English Muffin Way through the Younkens property to connect with the Linton PUD. Water to the site is provided from the New Design Water Treatment Plant. The New Design Water Treatment Plant is being expanded from its current capacity of 6.6 million gallons per day (GPD) to 15 million gallons per day. This project is funded for study, design and construction of Phase 2 in the Fiscal Year 2007 – 12 Capital Improvements Programs.

#### G. SUMMARY

As a mixed-use, commercial-employment development, the revised Younkens MXD will have little to no impact on schools, libraries, and park and recreation facilities. Police and fire protection are available and adequate to serve the proposed development.

The three subject parcels have S-3 DEV/W-3 DEV and S-4 DEV/W-4 DEV sewer and water classifications. Only S-4 DEV/W-4 is required for a MXD rezoning; the request is in compliance with County requirements.

#### 3. PRESENT AND FUTURE TRANSPORTATION PATTERNS:

The Applicant proposes to integrate the three parcels which are the subject of the application with the existing Younkens MXD. The Younkens MXD is situated at the northwest corner of New Design Road and Elmer Derr Road. New Design Road is a north-south arterial road connecting the southern portion of the County with Frederick City. It is one of four primary north-south routes through the Adamstown Planning Region. The others are Ballenger Creek Pike (MD 351), Buckeystown Pike (MD 85), and US 15. Ballenger Creek Pike and US 15 are located west of New Design Road and Buckeystown Pike is located to the east.

English Muffin Way runs east-west and is designated a major arterial in the Adamstown Region Plan. It currently dead-ends into the Younkens MXD from the east but will be extended through to Elmer Derr Road by the developer. It is anticipated that English Muffin Way will ultimately be a major arterial from its intersection with Buckeystown Pike through to US 15 to the west.

Traffic counts conducted by the Maryland State Highway Administration in 2007 indicate the following average annual daily traffic trips on major roads in the vicinity of the proposed MXD:

New Design Road north of English Muffin Way

Northbound	5,349
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Southbound	4,413
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New Design Road south of English Muffin Way

Northbound	3,466
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Southbound	3,063
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This MXD rezoning application will add 2.08 acres, more or less, to the Employment/Industrial component and 3.65 acres, more or less, to the commercial component of the existing Younkens MXD.

An extension of English Muffin Way is proposed in the Adamstown Region Plan to provide an east-west connector through the Adamstown Planning Region to connect all major north-south routes. The existing Younkens MXD Phase I approval in 2006 was given with a condition that the developer/property owner design and construct the extension of English Muffin Way.

As part of the revised Phase I Concept Plan for the Younkens MXD, these three parcels will contribute to the planned extension of English Muffin Way. This will serve to improve the arterial road network within the Adamstown Planning Region by providing increased inter-county access across the Region. This MXD development will generate a significant number of new trips in the area, but will do so in the context of a moderate density Regional Community with commercial and employment destinations as well as residential neighborhoods.

4. COMPATIBILITY WITH EXISTING AND PROPOSED DEVELOPMENT IN THE AREA:

The three subject parcels are located at the juncture of three dominant land uses in the area: agricultural, industrial and residential. North of the site is residential development, to the south and east of the site is industrial development and agricultural uses are dominant to the west.

The three subject parcels are located immediately adjacent to the Younkins MXD and will be incorporated into a revised Phase I Concept Plan for the MXD. The Younkins PUD is located immediately north of the MXD.

These three parcels are situated within the growth boundary for the Ballenger Creek Regional Community. They are the last remaining parcels within the growth boundary that are currently zoned Agriculture; others have developed or built out in accordance with the land use plan depicted in the 2001 Adamstown Region Plan. Including the three parcels into the design concept for the Younkins MXD will be more compatible with existing and proposed development than if the properties remained in agricultural and rural uses.

5. RECOMMENDATION OF THE FREDERICK COUNTY PLANNING COMMISSION:

The Frederick County Planning Commission voted to recommend approval of the request for MXD zoning with a land use mix of "approximately" 49% employment, 25% commercial, 20% open space and 6% right of way as depicted by the Applicant on its Revised Phase I Concept Plan for the Younkins MXD. Specifically, the Frederick County Planning Commission recommended approval based on the findings provided in Section IX of the staff report with the six conditions recommended by Planning Staff, amending staff's condition 5 (relating to land use mix) by adding the word "approximately" before the land use mix percentages.

6. RELATIONSHIP WITH THE FREDERICK COUNTY COMPREHENSIVE PLAN:

The proposed MXD zoning is consistent with the Limited Industrial land use designation of parcels 1 and 2 in the 2001 Adamstown Region Plan. Although Parcel 3 is designated as Medium Density Residential by that Region Plan, the Younkins PUD rezoning Ordinance No. 06-40-436 provides that the English Muffin Way extension will define the boundary between residential uses (to the north, in the PUD) and employment/industrial uses (to the south, in the MXD).

These three parcels are located within the growth boundary for the Ballenger Creek Regional Community established in the 2001 Adamstown Region Plan. The proposed revised Younkins MXD Phase I Concept Plan land use mix is consistent with the MXD threshold requirements in the Zoning Ordinance and the maximum land use mix percentages approved by the Board in Ordinance No. 06-40-436, approving the Younkins MXD.

Based on all the evidence submitted in the matter, the Board of County Commissioners determines that this project concept is both feasible and desirable. The Board determines that the MXD district satisfies the objectives and requirements set forth in subsections A through G of Frederick County Code § 1-19-324 with the conditions below. The inclusion of these three properties in the revised Phase I Concept Plan of the Younkens MXD satisfies the purposes and objectives of the MXD district, and will allow for the introduction of a mixture of uses in an integrated manner while encouraging an efficient use of land. This proposal will also help to create an environment that ensures the integration and compatibility of the Younkens MXD project with existing and proposed surrounding development while acting as a focal point for the area. This proposal will foster a pedestrian friendly environment by the development of a comprehensive non-vehicular circulation network that links residential, commercial and employment areas as well as open spaces, public facilities and recreation areas. This proposal allows for development and design flexibility. This proposal, with the conditions below, accommodates mass transit services which exist or are planned in the vicinity of the MXD site.

This site has a classification of at least W4/S4 on the County Water and Sewerage Plan and this site is consistent with the "community concept" of development as described in the County Comprehensive Plan. This property is located adjacent to existing or planned arterial roads that are or will be adjacent to service the proposed development. This proposed site is feasible for the MXD district and satisfies the MXD

purposes, objectives and standards. The proposed MXD, with conditions, is compatible with the existing uses in the neighborhood as shown on the County Comprehensive Plan.

The Maximum Permitted Land use Mix percentage for the commercial and employment components shall be 65% employment, and 45% commercial as set forth in Ordinance 06-04-436, approving the Younkens MXD rezoning.

The proposed MXD floating zone classification will be granted subject to the conditions stated below.

### ORDINANCE

BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that for the reasons set forth above, Rezoning Case No. R-07-01 is hereby GRANTED for the reclassification of 7.17 acres of land, more or less (as delineated in the record), from the Agriculture (A) zoning district to the Mixed use Development (MXD) floating zone, subject to the following conditions.<sup>1</sup>

1. The Applicant shall dedicate to the County a minimum of a 100-foot right of way for the extension of English Muffin Way.
2. The Applicant shall design and construct the extension of English Muffin Way subject to the review and approval of the Frederick County Division of Public Works, in accordance with the sequencing schedule set forth in the application.
3. Architectural renderings of the employment uses are to be provided at the Phase II review.
4. The Revised Phase I Concept Plan for the Younkens MXD does not include a residential component; the entire site is allowed to be used for

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<sup>1</sup> The term "developer", "Applicant" or "Owner" as used in the conditions of this Ordinance includes all present and future owners and developers of the property specifically including all heirs, successors and assigns (as may be applicable). These conditions run with the land.



commercial and employment uses with English Muffin Way acting as a buffer for the residential uses proposed in the Younkens PUD application.

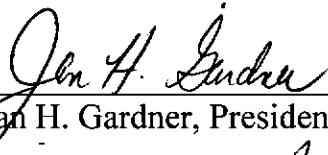
5. The three parcels, totaling 7.17 acres, more or less, will be incorporated into a Revised Phase I Concept Plan for the Younkens MXD at the proposed land use mix of 49% employment; 25% commercial; 20% open space; and 6% right of way/dedication, subject to the Maximum Permitted Land Use Percentages of 65% employment and 45% commercial, as set forth in Ordinance No. 06-40-436.

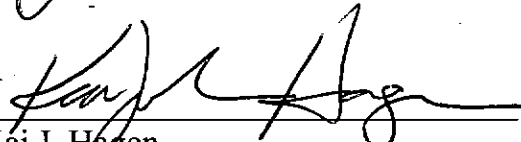
AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD,

\*that the Zoning Administrator is hereby authorized and directed to make the appropriate change on the Zoning Map showing this reclassification, with conditions, as indicated above.

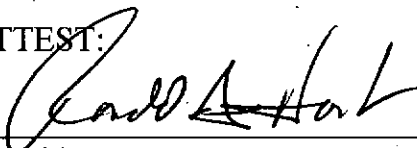
The undersigned hereby certify that this Ordinance was approved and adopted on the 19th day of June, 2008.

BOARD OF COUNTY COMMISSIONERS  
OF FREDERICK COUNTY, MARYLAND

By:   
Jan H. Gardner, President

  
Kai J. Hagen

ATTEST:

  
Ronald A. Hart  
County Manager

  
Charles A. Jenkins

MJC 6/19/08

Commissioners John L. Thompson, Jr. voted against the proposed application.  
Commissioner David P. Gray was absent.